

EDUCATIONAL OPPORTUNITY GRANT PROGRAM Update

July 2002

BACKGROUND

The 1987 Master Plan adopted by the Higher Education Coordinating Board (HECB) cited inadequate access to baccalaureate education for the state's urban population as an urgent problem. At the recommendation of the HECB, the 1990 Legislature established the Educational Opportunity Grant (EOG) program as one of three strategies designed to address the need for greater access to baccalaureate education. The other strategies included lifting enrollment lids at four-year public institutions, and creating branch campuses to serve upper-division and graduate students living in the state's urban areas.

The EOG program was created as a demonstration project to provide another educational option for "placebound"¹ residents living in counties that branch campuses serve. It was based on an assumption that the size and, therefore, the construction and operating costs of the proposed branch campuses could be reduced if students could be encouraged, through the provision of a \$2,500 grant, to enroll in existing public or independent institutions with capacity.

Like other financial aid programs, the EOG program requires recipients to demonstrate financial need. The program is unique, however, in several ways. Currently, to receive an EOG, a student must:

- Have received an associate of arts degree or its equivalent;
- Intend to complete a baccalaureate degree;
- Meet the statutory definition of "placebound;"
- Reside in one of 13 counties served by a branch campus;
- Attend a Washington public or private four-year college or university with the capacity to accommodate students within existing education programs and facilities; and
- Adhere to the EOG program's religious-program exclusion.²

Finally, as noted above, because the program was established to encourage needy, placebound students to attend existing baccalaureate institutions, the enabling legislation also stipulates that recipients may not use the grant to attend a branch campus.

¹ RCW 28B.101.020(1) defines placebound as, "unable to relocate to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors." Subpart (2) of the same section states, "...A placebound resident is one who may be influenced by the receipt of an enhanced student financial aid award to attend an institution that has existing unused capacity rather than attend a branch campus established pursuant to chapter 28B.45 RCW. An eligible placebound applicant is further defined as a person whose residence is located in an area served by a branch campus who, because of family or employment commitments, health concerns, monetary need, or other similar factors, would be unable to complete an upper-division course of study but for receipt of an educational opportunity grant."

² RCW 28B.101.040, "...The participant shall not be eligible for a grant if it will be used for any programs that include religious worship, exercise, or instruction or to pursue a degree in theology..."

A supplement to other grant aid, the EOG reduces the amount of need-based loans the student would otherwise have to assume or helps cover documented need not met by other aid programs. Its purpose is to provide a financial incentive to enable placebound students who face barriers to continuing their education to enroll in local colleges or universities or to relocate to complete their baccalaureate degrees.

In the 1997, 1998, and 1999 legislative sessions interest was shown in modifying various aspects of the EOG program. Bills were introduced over that period of time that would have (1) extended eligibility to students from all counties; (2) permitted students to use the grants at branch campuses; (3) eliminated reference to unused capacity; and (4) used the grant to fill unused enrollments. Another bill, introduced in 1998, would have authorized the use of Educational Opportunity Grants at WSU's Vancouver branch campus, and for Oregon border county reciprocity. In 1999, some legislators expressed interest in expanding eligibility to students in all counties, but deferred action until the Board had had an opportunity to complete its review of the program and recommend any modifications.

In the summer and fall of 2000, the Board conducted a thorough review of the program to evaluate the program's effectiveness in achieving the goals of the enabling legislation, and also to consider whether statutory or regulatory modification should be proposed because of changes in higher education delivery since 1990. As a result of that study, the Board adopted Resolution 00-55 at its December 6, 2000, meeting. The resolution recommends the following program changes.

1. **County of Residence.** Eligibility should be expanded to residents of all counties.
2. **Branch Campuses.** Eligibility should be extended to students who wish to enroll at state-supported branch campuses, enabling recipients to select the program and eligible institution that best responds to their educational goals.
3. **Institutional Participation.** Institutional eligibility should be extended to branch campuses, extension sites, and educational facilities that operate within Washington, that are affiliated with regionally accredited nonprofit institutions in another state, and meet the following criteria:
 - Have delivered on-site classroom instruction within Washington for a minimum specified period of time;
 - Are fully certified and participate in federal student financial aid programs;
 - Are eligible for and participate in the Washington State Need Grant program; and,
 - Provide necessary assurances of administrative capability.
4. **Grant Amounts.** Grant amounts should be established by rule of the Board, rather than in statute, so that they may be periodically adjusted, as necessary, to reflect such factors as changes in the costs of attendance and the availability of other grant assistance.

5. **Period of Award.** Administrative procedures should be changed to permit grant periods to begin during any academic term upon the student's transfer to an eligible institution, with continuing eligibility contingent upon attainment of junior status by the end of the first term of award, with a maximum award period of eight quarters (or equivalent).
6. **Transfer Degrees.** The enabling legislation should be changed to include reference to the Associate of Science degree, and any other two-year degree approved by the Board, as an appropriate transfer degree for purposes of establishing eligibility for the EOG.
7. **"Unused Institutional Capacity."** The concept of "unused institutional capacity" is no longer relevant, and its reference should be eliminated.
8. **Program Status.** Reference to the EOG program as a demonstration project should be deleted, and the program should be continued as an on-going program that complements the state's other financial aid programs.

Concurrent with the study, adoption of the evaluation report and passage of the resolution, the program was involved in litigation testing the constitutionality of the program. On June 13, 2002, the Washington Supreme Court ruled in a six-three decision that the program upholds the constitution of the state of Washington.

Given that outcome, if the Board so directs, staff will begin the steps necessary to seek statutory amendments incorporating the recommendations of Board Resolution 00-55.

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Update on Washington Supreme Court Ruling

July 2002

The Washington Supreme Court on June 13 upheld the state's Educational Opportunity Grant (EOG) program. The EOG program was created in 1990 as one of several strategies to increase access to upper-division enrollment. The program provides \$2,500 renewable grants, to students who have completed the first two years of higher education, as an incentive to go on and complete their baccalaureate degrees.

The case stemmed from a 1995 lawsuit filed by the American Civil Liberties Union on behalf of Mary Gallwey, a professor at Washington State University. Gallwey contended the program, which provides financial aid grants to needy students in certain counties in Washington, violated the state and federal constitutions. The case challenged the use of the program funds at Washington's religiously affiliated colleges and universities.

In 1996, the case was referred to Thurston County Superior Court for findings of fact, conclusions of law and a decision. In May 1999, Judge Daniel Berschauer ruled against the program and immediately referred the case back to the Supreme Court. In his decision Berschauer wrote that he expected the Supreme Court to overturn his ruling and therefore allowed the program to continue pending appeal.

In its defense, the state said the purposes of the program were entirely secular. The program stipulates that students be the recipients of the funds, and that those accepting the grant funds cannot be involved in programs that include religious worship, exercise or instruction, or pursue a degree in religious, seminarian or theological academic studies.

The Supreme Court determined that the program satisfied constitutional provisions that apply to higher education institutions. In its conclusion, the court said the EOG Program was designed to meet the critical needs of "placebound" financially needy students, not to foster religion or religious worship.

By way of background, the Legislature had enacted the grant program in 1990, based on findings that:

- Washington's participation rate for upper-division course work ranked 46th in the nation;
- The state's largest population growth was occurring in areas surrounding Seattle that were not served by a public university; and
- There was a significant disparity in access to upper-division course work based on geography.

Currently, the program serves about 1,000 students in the six public baccalaureate colleges and universities in the state, as well as eleven private institutions. The state Legislature earmarked \$2.9 million to help students in the 2002-03 academic year.